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Copyrights--Infringement--Pictorial Works [*United Artists Televwson, Inc. v. Fortnightly Corp.*, 255 F. Supp. 177 (S.D.N.Y. 1966)]

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by what means is the bank to carry out this added function, except upon the basis of its own contractual relationship with its depositors? The depository bank lacks the facilities to oversee the entire process of corporate disbursements much less to provide credit ratings for each of its corporate depositors. Such unnecessary and overburdensome restrictions could easily clog financial transactions. In the event that some irregularity is suspected, would the bank then have the power to interfere in the contractual relations between its depositor and third parties?

It becomes apparent that *Maley* raises serious questions concerning the ambit of a depository bank's duties and liabilities to third parties and may, in the foreseeable future, have great impact upon the question of what constitutes the ordinary course of banking business.

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COPYRIGHTS — INFRINGEMENT — PICTORIAL WORKS

United Artists Television, Inc. v. Fortnightly Corp., 255 F. Supp. 177 (S.D.N.Y. 1966).

Community antenna television systems, more commonly referred to as CATV, are a recent and fast-growing industry that earns its profit by supplying a variety of television programs to its subscribers. CATV operators install high antennas which are strategically located to receive television signals emanating from regular broadcast stations. The signals are then amplified and retransmitted by CATV equipment through cables to the individual subscriber's television set, thus enabling subscribers to view programs they would have been unable to receive by use of their own equipment.[1]

Originally serving areas with little or poor television reception, CATV is now rapidly spreading to large metropolitan areas in order to provide subscribers with superior reception of a wide variety of television programs. However, a conflict between CATV operators and regular broadcast stations has arisen because the former fails to pay for the signals they retransmit.

[1] In extremely hilly or remote areas, a microwave relay is required to boost the strength of the transmitted signal. The microwave relay sends the signal from point to point and finally to the transmitter where it is sent out to the subscribers via coaxial cables.

An Idaho television station attempted to resolve the conflict by asserting that a CATV system using television signals without payment was guilty of unfair competition.[2] The relief was denied, but the court of appeals proceeded to state that an action might be maintained on grounds of copyright infringement, if the copyright owner was a party to the action.[3] Thereafter, *United Artists Television, Inc. v. Fortnightly Corp.*[4] arose to adjudicate the question of copyright liability for a CATV system retransmitting copyrighted programs without paying any fees.[5]

In this case of first impression, the court held that the defendant CATV system was guilty of copyright infringement because it had "publicly performed for profit" plaintiff's copyrighted programs in violation of the Copyright Act of 1909.[6] The basic task of the court was to interpret the statute, especially the word "perform," so as to determine whether the nature of CATV activity was covered by the archaic Copyright Act.[7]

To extend copyright liability to the novel fact situation in *United Artists*, the court discussed the linguistic, technological, and economic realities of the word "perform,"[8] concluding that CATV ac-

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[2] Cable Vision, Inc. v. KUTV, Inc., 211 F. Supp. 47 (D. Idaho 1962), *rev'd*, 335 F.2d 348 (9th Cir.), *cert. denied*, 379 U.S. 989 (1964).

[3] Cable Vision, Inc. v. KUTV, Inc., 335 F.2d 348, 353-54 (9th Cir.), *cert. denied*, 379 U.S. 989 (1964).

[4] 255 F. Supp. 177 (S.D.N.Y. 1966). The suit was initiated because the defendant's CATV systems had transmitted the plaintiff's copyrighted motion pictures without seeking permission or paying any license fee or copyright royalties. The issue of copyright liability was separately litigated but the plaintiff's claim of unfair competition was postponed for adjudication at a future time. *Id.* at 181-82.

[5] In 1965 Columbia Broadcasting System brought a similar action for copyright infringement in a New York federal district court. However, a summary judgment was sought and denied, the court holding that the issue is of such great importance that the facts should be fully developed before a binding decision is reached. Columbia Broadcasting Sys. v. Teleprompter Corp., 251 F. Supp. 302 (S.D.N.Y. 1965).

[6] 17 U.S.C. §§ 1-216 (1964); 255 F. Supp. at 215.

[7] The provisions of the Copyright Act involved were 17 U.S.C. §§ 1(c) and (d) They read as follows:

> Section 1. Any person entitled hereto . . . shall have the exclusive right:
> . . . .
> (c) . . . to play or perform it [the copyrighted work] in public for profit . . . .
> (d) To perform or represent the copyrighted work publicly . . . to exhibit, perform, represent, produce, or reproduce it in any manner or by any method whatsoever . . . .

The court claimed that it was unnecessary to make any distinction between the word "perform" in the two sections and concluded that defendant's performances were "public" and "for profit." 255 F. Supp. at 198.

[8] *Id.* at 201-06.

tivities are within the purview of the statute.[9] Also considered were plaintiff's assertions concerning analogous case law.[10] The defendant argued *inter alia* that the CATV system does not "originate, broadcast, or rebroadcast programs or change the signals which are broadcast from and originate with the television stations."[11] They further argued that CATV provides only a reception service and has an implied-in-law license sanctioning its activities.[12]

Judge Herlands' opinion heavily emphasized the cases of *Buck v. Jewell-LaSalle Realty Co.*[13] and *Society of European Stage Authors & Composers, Inc. v. New York Hotel Statler Co.*[14] *(SESAC).* These two cases discussed the word "perform" and extended the Copyright Act coverage to use of radio broadcasts, a technological invention not existent when the act was passed.

In *Buck*, a hotel was held liable for copyright infringement when it "piped" recorded music from a radio station, which was not licensed to broadcast the music, into its public and private rooms. Mr. Justice Brandeis, speaking for the Court, decided that the hotel was a "performer" under the Copyright Act and therefore had to pay a license fee for use of the music.[15]

The *SESAC* case posed a problem similar to that adjudicated in *Buck*, but presented a slightly different factual situation. Again it was a hotel that was retransmitting music from a radio station, but the music went only to the private rooms of the hotel and the radio station was licensed to broadcast the music. Most significant was the fact that, unlike *Buck*, the guest in *SESAC* completed the last act necessary to reproduce the broadcast performance by merely turning the knob on the receiving set in his room.

Judge Woolsey, writing the *SESAC* opinion, did not believe these distinctions were enough to remove the hotel from liability under the Copyright Act. By following the lead of the *Buck* decision, Judge Woolsey declared that when a hotel does as much as it did to reproduce and transmit a broadcast program, "it must be con-

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[9] *Id.* at 214.

[10] *Id.* at 206-10.

[11] *Id.* at 200.

[12] *Id.* at 199-201. The court stated that it was limiting itself to the issue of "whether defendant has infringed plaintiff's performing rights" and thus would not consider additional far-reaching issues. *Id.* at 199.

[13] 283 U.S. 191 (1931).

[14] 19 F. Supp. 1 (S.D.N.Y. 1937).

[15] 283 U.S. at 195-201.

sidered as giving a performance thereof within the principle laid down by the Supreme Court in the LaSalle Hotel Case."[16]

The significance of the *Buck* and *SESAC* decisions is that in both cases the courts were interpreting the language of the Copyright Act.[17] In addition, the *United Artist* court was impressed by the *Harms, Inc. v. Sansom House Enterprises*,[18] decision which declared that the novelty of the infringing method was unimportant, if the end result was a performance.[19] In recognizing the significance of these prior cases, Judge Herlands found a sound basis for further extending the scope of the Copyright Act to CATV.

Arguments that the defendant was merely a passive receiver and not a "performer" were dismissed by the court after a thorough discussion of the technological aspects of CATV systems and regular broadcasting stations. Judge Herlands concisely concluded that

> when a CATV system, for profit, plays so substantial a part in a reproduction of a broadcast performance being seen and heard by the public that the only act necessary to transduce the electromagnetic waves it has processed and transmitted to subscribers into an audible and visible reproduction of the broadcast performance is a minor, albeit essential, one — such as "turning the knob" on a homeowner's television set — the CATV system must be said to have infringed upon the exclusive right to "perform" which Congress has bestowed upon the copyright proprietor in 17 U.S.C. § 1(c) and (d).[20]

As well as arguing that it was not a "performer," the defendant placed strong emphasis upon the assertion that it had an implied license in law immunizing it from copyright liability.[21] The defendant claimed that under the Copyright Act and under the Federal Communications Act of 1934,[22] as implemented by the regulations

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[16] 19 F. Supp. at 4-5.

[17] See Goldberg, *Recent Judicial Developments in Copyright Law*, 13 BULL. COPYRIGHT SOC'Y 378, 384 (1966), wherein the author recounts that Mr. Justice Brandeis claimed that a single rendition of a copyrighted work could result in a multiple performance.

[18] 162 F. Supp. 129 (E.D. Pa. 1958), *aff'd sub nom.*, Leo Feist, Inc. v. Lew Tendler Tavern, Inc., 267 F.2d 494 (3d Cir. 1959).

[19] 255 F. Supp. at 210.

[20] *Id.* at 214.

[21] To make clear its "implied license in law" argument, the defendant was requested to file a separate reply memorandum entitled the "Third Separate Defense." The court makes it clear that it is dealing only with a possible license implied in law and that there was no credible evidence indicating a license in fact, either implied or express. 255 F. Supp. at 210 n.18.

[22] 48 Stat. 1064, 47 U.S.C. §§ 151-609 (1964).

of the Federal Communications Commission, an implied license implied in law existed.[23]

To substantiate its position, the defendant set forth the case of *Buck v. Debaum*,[24] holding that when a radio station was licensed to broadcast music, they had impliedly licensed anyone to transmit that music. The *Debaum* court said that when a copyright owner licenses a radio broadcaster to play his song, he fully acquiesces to the rebroadcast of the song, because he "can fully protect himself against any unauthorized invasion of his property right by refusing to license the broadcasting station . . . ."[25] The defendant further claimed that the validity of the argument was recognized by Mr. Justice Brandeis in *Buck v. Jewell-LaSalle Realty Co.* when he referred to the case and stated that a license for transmission might be implied if the broadcast station were licensed.[26]

Judge Herlands, however, felt the *Debaum* case had little merit. He declared that *Debaum*'s language concerning the license implied in law was neither approved nor rejected by the Supreme Court, adding that both England and Canada had seemingly rejected the existence of an implied-in-law license in such a situation.[27] The court also noted that it could not agree with the language of the *Debaum* case which said the copyright owner could fully protect himself against unauthorized invasion of his rights.[28]

The court in *United Artists* summarily stated that there was no merit in the defendant's argument that the Communications Act and the FCC regulations prohibited the collection of copyright fees by the plaintiffs because neither was meant to repeal or modify the Copyright Act.[29]

Although the *United Artists* case is of great significance, it surely will not be the ultimate decision concerning the relationship of CATV and copyright law. The CATV industry has merely lost its first battle with the copyright owners and regular television

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[23] 255 F. Supp. at 211.

[24] 40 F.2d 734 (S.D. Cal. 1929).

[25] *Id.* at 736.

[26] 283 U.S. at 199 n.5.

[27] 255 F. Supp. at 211, citing, Performing Right Soc'y, Ltd. v. Hammond's Bradford Brewery Co., 49 T.L.R. 410 (Ch.), *aff'd*, 50 T.L.R. 16 (C.A. 1933), *aff'd*, [1934] 1 Ch. 121; Canadian Performing Right Soc'y v. Ford Hotel, [1935] 2 D.L.R. 391.

[28] 255 F. Supp. at 211.

[29] *Id.* at 212. Judge Herlands simply stated: "Beyond cavil, neither the policy nor the language of the Federal Communications Act or the regulations promulgated thereunder, nor the reports of the FCC are intended to or have the effect of repealing or modifying section 1 of the Copyright Act." *Ibid.*

broadcasters. An appeal of the *United Artists* case has already been granted,[30] and Congress is already considering the problem.

Subcommittees of the House and Senate Committees on the Judiciary have been engaged in the revision of the 1909 Copyright Act.[31] Moreover, the House subcommittee has published a report consisting of the predominate arguments presented at its hearings, both for and against the extension of copyright regulation to CATV.[32]

Those who argue that CATV should not be governed by copyright law assert that CATV systems are merely providing a service for television reception,[33] and it is pointed out that a workable plan for advance clearances of copyrighted programs has not been presented.[34] Furthermore, performance royalties now being paid by regular broadcasters to the copyright owners are said to include compensation for CATV retransmission, since the fees are based on the ultimate size of the audience receiving the program.[35] Finally, it is argued that imposition of copyright infringement liability would conflict with FCC rules requiring CATV systems to carry the signals of local broadcasters.[36]

On the other hand, there are many who argue that CATV should be placed under full liability because CATV is essentially the same as a regular local television station and therefore should not be allowed to use the regular broadcaster's signals free of charge while earning profits from its own subscribers.[37] It is also argued that copyright owners will be deprived of exclusivity within a particular area if CATV systems are permitted to retransmit copyright programs indiscriminately[38] and that advance clearance arrangements

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30 The United States Court of Appeals for the Second Circuit granted the appeal, and the case will probably be argued after January of 1967. Perhaps CBS will get its case before the Court of Appeals at the same time as the *United Artists* case, and thus the two suits might be consolidated or heard seriatim. See note 5 *supra.*

31 The House and Senate Committees on the Judiciary have both conducted hearings on copyright revision, each for their own bill. S. 1006, H.R. 4347, 89th Cong., 2d Sess. (1965).

32 H.R. REP. NO. 2237, 89th Cong., 2d Sess. 78-79 (1966). See also REGISTER OF COPYRIGHTS, COPYRIGHT LAW REVISION PART VI, SUPPLEMENTARY REPORT OF THE REGISTER OF COPYRIGHTS ON THE GENERAL REVISION OF THE U.S. COPYRIGHT LAW 41-42 (Comm. Print 1965) [hereinafter cited as REGISTER OF COPYRIGHTS].

33 H.R. REP. NO. 2237, 89th Cong., 2d Sess. 78 (1966).

34 *Ibid.*

35 *Ibid.*

36 *Id.* at 79.

37 *Ibid.*

38 *Ibid.*

are both practical and workable and will not result in monopolistic practices.[39]

After discussing the various arguments, the House subcommittee, in its 1965 report, concluded that CATV systems are publicly performing the copyright owner's work.[40] Thus a bill[41] was drafted in 1965, according to which a public performance of a copyrighted work would result if it was transmitted or communicated "by means of any device or process."

The FCC presently exercises extensive control over CATV activities.[42] Although a detailed consideration of the control is beyond the scope of of this article, it is interesting to note that the FCC has exercised restraint concerning the copyright issue. However, in issuing an order compelling CATV to carry signals of all local stations, the agency stated "[T]he fact that we have given the local station the right to have its signal carried over the CATV system (and not duplicated for a reasonable period), affords no defense to that system in a copyright suit."[43] The committee went on to say that "if the copyright suits are decided adversely to the CATV industry, we may, as stated in the first report, have to revise our rules."[44] In view of this statement, the *United Artists* decision may significantly affect future FCC rulings.

Although the arguments of the CATV industry failed to persuade the *United Artists* court and the 1965 subcommittee of the House Committee on the Judiciary, they have found a sympathetic ear in the Department of Justice. Appearing before the Senate subcommittee on Patents, Trademarks, and Copyrights, on August 25, 1966, Assistant Attorney General Edwin M. Zimmerman asserted that blanket copyright liability for CATV systems would have anticompetitive effects.[45] He stated that since ownership and control of copyrights are highly concentrated among the networks and television producers, they could exact any fee desired and thereby seek

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[39] *Ibid.*

[40] REGISTER OF COPYRIGHTS, 22.

[41] H.R. 4347, 89th Cong., 1st Sess. § 106(b)(3)(B) (1965). This section appears in the original bill, not the amended version as presented in 1966.

[42] For a concise discussion of recent action taken by the FCC, see Warren, *The Coming Cable TV War*, Saturday Review, June 11, 1966, pp. 90, 93.

[43] 31 Fed. Reg. 4557 (1966).

[44] *Ibid.*

[45] *Statement of Acting Assistant Attorney General Edwin M. Zimmerman Before the Senate Subcommittee on Patents, Trademarks, and Copyrights of the Committee on the Judiciary on S. 1006*, 89th Cong., 2d Sess. 1 (Aug. 25, 1966).

"to reserve the CATV market for themselves."[46] Mr. Zimmerman proclaimed that blanket liability was not the answer to the CATV problem and that it would best be handled by flexible FCC regulations. And, he felt that if there was to be legislation it should distinguish between different CATV operations.[47]

The anticompetitive argument appears to be the most valid one yet advanced on behalf of the CATV industry. The court in *United Artists* did not discuss this position, since it was merely interpreting the language of the existing statute. However, Judge Herlands did state that "although exemptions from inclusion within the copyright proprietor's performance monopoly may arguably be desirable in certain instances purely on policy grounds, such desiderata are for Congress and not the courts."[48]

In viewing the potential power of the copyright owners, one can understand why the CATV industry is disturbed by the prospect of full copyright liability. The spokesman for CATV appears to be Frederick W. Ford, president of the National Community Television Association (NCTA) and past chairman of the FCC.[49] Mr. Ford has appeared before both the Senate and the House subcommittees reviewing the copyright law and has sought to prevent the passage of new legislation which would impose full copyright infringement liability on CATV.

In June 1965, Mr. Ford appeared before the subcommittee of the House Committee on the Judiciary and related many of the arguments heretofore set forth on behalf of the CATV industry.[50] In August 1966, Mr. Ford appeared before the Senate Subcommittee on Patents, Trademarks, and Copyrights and claimed that proposed bills of the Senate and House would confirm the very broad liability imposed by Judge Herlands in the *United Artists* decision and would thereby place the CATV industry at the mercy of copyright owners.[51] Therefore, in his opinion, amendments to the House and Senate bills were needed to effectuate a more equitable result.

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[46] *Id.* at 2-3.

[47] *Id.* at 8-9.

[48] 255 F. Supp. at 214-15.

[49] NCTA claims to include approximately seventy percent of CATV systems in its membership. There are a total of approximately seventeen hundred systems serving about two million subscribers.

[50] *Statement of Frederick W. Ford Before Subcommittee No. 3 of the House of Representatives Committee on the Judiciary*, 89th Cong., 2d Sess. 1-34 (June 24, 1965).

[51] *Statement of Frederick W. Ford Before the Subcommittee on Patents, Trademarks, and Copyrights of the Senate Committee on the Judiciary*, 89th Cong., 2d Sess. 4 (Aug. 2, 1966).

Feeling that an affirmance of the *United Artists* decision and enactment of copyright revision would tend to destroy the industry, Mr. Ford set forth a compromise proposal.[52] To prevent the inequities of imposing full liability for copyright infringement on CATV, the NCTA compromise imposes full liability only in certain situations. Full liability would result when a CATV system transmits distant signals into an area already fully served, *e.g.*, transmitting New York programs into Cleveland, and when the CATV system originates its own programs.[53] No copyright liability would result for CATV distribution of local signals within the normal reception range of the local station.[54] However, distributing distant signals into an underserved area (an area with only one or two local broadcasting stations) would require a compulsory license fee determined by a percentage of the system's profits.[55] The rationale of this position is that CATV serves a useful public function by supplying underserved areas and thus should not be penalized by being compelled to pay any fee desired by the copyright owner.[56] Furthermore, Mr. Ford claimed that CATV would be willing to cooperate as to the blackout privileges granted to professional sports.[57]

Although the NCTA compromise was a welcomed proposal from the CATV industry, a similar compromise had previously been presented by the House subcommittee reviewing the issue. Representative Robert W. Kastenmeier, acting chairman of the subcommittee, presented a proposal which succinctly categorized CATV liability.[58] The categories were labeled white, black, and gray, each with a varying degree of copyright liability similar to those later set forth by NCTA.

Compromise efforts culminated in the presentation of an

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[52] *Id.* at 5. Mr. Ford stated, "These proposals in their entirety may satisfy no one — certainly not ourselves — but they are made in good faith and we stand ready to work with this Subcommittee, its staff, and all parties having an interest in seeking legislation that will best serve the public interest." *Id.* at 6. See also *Additional Statement of Frederick W. Ford Before the Subcommittee on Patents, Trademarks, and Copyrights of the Senate Committee on the Judiciary*, 89th Cong., 2d Sess. 8 (Sept. 6, 1966).

[53] Few CATV systems originate programs, but some have originated their own news and weather shows, thus observers have anticipated increased origination. *Id.* at 14.

[54] *Id.* at 10.

[55] *Id.* at 11.

[56] While many observers agreed that a compromise was necessary, Mr. Ford intimates that copyright owners were against compromise, feeling that they had a good chance to subject CATV to permanent full liability for copyright infringement. *Additional Statement of Frederick W. Ford, supra* note 52, at 2, 5.

[57] *Id.* at 1-20.

[58] 112 CONG. REC. 9564 (daily ed. May 9, 1966).

amended House bill[59] on October 12, 1966. After considering the inequities of the original bill, the Committee on the Judiciary decided to distinguish and categorize CATV operations. Thus if this proposed legislation is enacted during the next congressional session, CATV systems will be subject to varying degrees of liability, according to the methods of their operation. Certain CATV operations would be wholly exempt from infringement liability if their purpose was merely to provide improved reception.[60] A CATV system in this category would operate solely within an area adequately served by local broadcasters and would retransmit only the local stations' programs in order to provide CATV subscribers with a quality of reception that may be unobtainable with ordinary antennas. No copyright fees would be demanded under this provision, since the CATV system is benefitting copyright owners by increasing the size of the local audience.[61]

Full liability for copyright infringement would result if the CATV system "imported" signals into an area already adequately served by television networks. Full liability would also arise when a local broadcaster in the area had an exclusive license to show the program or when the CATV system originated programs.[62] To effectuate this section, provisions have been made for recording television program copyrights and for requiring notice as to exclusive licenses.[63]

Limited copyright infringement liability is prescribed when a CATV system serves an area not receiving all the networks, liability being limited to a "reasonable license fee" as determined by the courts.[64] However, this category also contains a provision whereby a court can increase or reduce the amount of recovery if it finds that the parties have refused to negotiate or to accept a reasonable offer.[65]

The amended copyright revision bill seems to have equitably dealt with the relationship of copyright owners and CATV opera-

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[59] H.R. 4347, 89th Cong., 2d Sess. (1966).

[60] H.R. 4347, 89th Cong., 2d Sess. § 111(a)(3) (1966). See H.R. REP. NO. 2237, 89th Cong., 2d Sess. 82-84 (1966).

[61] H.R. REP. NO. 2237, 89th Cong., 2d Sess. 83 (1966).

[62] H.R. 4347, 89th Cong., 2d Sess. §§ 111(b)(5)-(6) (1966). See H.R. REP. NO. 2237, 89th Cong. 84-87 (1966).

[63] H.R. 4347, 89th Cong., 2d Sess. §§ 111(b)(5)(A), (b)(6)(B) (1966).

[64] H.R. 4347, 89th Cong., 2d Sess. § 111(c) (1966). See H.R. REP. NO. 2237, 89th Cong., 2d Sess. 87-88 (1966).

[65] H.R. 4347, 89th Cong., 2d Sess. §§ 111(c)(2)(A)-(B) (1966).

tors. Perhaps neither group will be entirely satisfied by the amended bill. Nevertheless, the proposed legislation seems to balance the interests of each group in an attempt to perpetuate the growth of the CATV industry while also providing copyright owners with additional royalties for the increased use of their copyrighted material.

Because the *United Artists* decision imposes full liability for copyright infringement on all CATV systems, it is imperative that Congress act quickly and thereby exempt certain CATV activities from this liability; otherwise the CATV operators themselves may initiate other legal actions. Perhaps the CATV operators may wish to deal directly with the copyright owners, thus opening the door to the eventual conversion of CATV systems into pay-television.[66] It is certain that no matter what the control, the CATV industry will seek innovations to perpetuate its already rapid growth.[67]

In conclusion, the *United Artists* decision remains significant because of its interpretation of existing copyright law. Not only does the decision affect CATV systems but it may also have ramifications in analogous situations.[68] Perhaps a revision of the old Copyright Act will render the decision moot. Nevertheless, Judge Herlands correctly refused to speculate as to the economic results of holding CATV liable for copyright infringement. If it seems probable that certain anticompetitive effects will result from full liability, it is Congress and not the federal courts that must soften this burden. It may appear that CATV has been issued a harsh ultimatum by the *United Artists* decision. Yet the court was instructed to interpret the existing statute so as to determine whether CATV should be held to be a "performer." The greater question of whether there should be various degrees of copyright infringement liability according to the operations of the particular CATV system was beyond the scope of the case. In light of Judge Herlands' thorough technological discussion of CATV operations, it would seem that the court was justified in deciding the close ques-

[66] Gould, *CATV Liable to Owners of Films*, N.Y. Times, May 24, 1966, p. 95, col. 1.

[67] One writer has uniquely speculated as to the future of CATV saying:

> With its potentially unlimited access to homes, what's to stop CATV from providing many services other than TV? Facsimile newspapers? Shopping from the home? Library references? . . . . Once you get the wideband cable into the house, once you get TV to pay the initial freight of getting it there — the door is wide open. Warren, *supra* note 42, at 101.

[68] See Goldberg, *Recent Judicial Developments in Copyright Law*, 13 BULL. COPYRIGHT SOC'Y 378, 384-86 (1966), where he discusses the possible implications of *United Artists* on computer systems and other modern technological devices.